

**COURT OF APPEALS
DECISION
DATED AND FILED**

January 24, 2017

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal Nos. 2015AP2501-CR
2015AP2502-CR**

**Cir. Ct. Nos. 1985CF780
1985CF1026**

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

JOHN A. CASTEEL A/K/A TAYR KILAAB AL GHASHIYAH,

DEFENDANT-APPELLANT.

APPEALS from an order of the circuit court for Brown County:
TAMMY JO HOCK, Judge. *Affirmed.*

Before Stark, P.J., Hruz and Seidl, JJ.

¶1 PER CURIAM. John Casteel, a/k/a Tayr Kilaab al Ghashiyah, appeals an order amending two judgments of conviction. At the request of the

Department of Corrections, the circuit court clarified that the thirty-year sentence imposed in circuit court case No. 1985CR780¹ (now known as No. 1985CF780) was partially based on the penalty enhancer for habitual criminality pursuant to WIS. STAT. § 939.62(1)(c).² The circuit court also modified the judgment of conviction in circuit court case No. 1985CR1026 (now known as No. 1985CF1026) to remove 165 days of sentence credit. Casteel argues he was entitled to notice and an opportunity to be heard before the circuit court amended the judgments. We reject that argument and other issues Casteel attempts to raise that are not related to the amendments.

¶2 At the sentencing hearing, the circuit court imposed a thirty-year sentence in No. 1985CF780, noting:

The Court is satisfied that the habitual criminality statute should apply in this case, and quite clearly I have used that since I have gone five years beyond the regular maximum for this sentence and utilized five of the ten years that would be permitted to the Court under the habitual criminality statute. I've done that because I'm satisfied that John A. Casteel is a habitual criminal, and I'm satisfied that it is most appropriate in this case that that statute be utilized.

The court appropriately amended the judgment of conviction to reflect this unambiguous oral pronouncement of the sentence. *See State v. Prihoda*, 2000 WI 123, ¶15, 239 Wis. 2d 244, 618 N.W.2d 857. The court's oral pronouncement trumps the written judgment of conviction which failed to reflect the repeater

¹ The circuit court case numbers have been changed from "CR" to "CF" due to changes in the computerized record system.

² All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

enhancer. *Id.* The circuit court has the power to correct the clerical error in the judgment of conviction at any time without notice or a hearing. *Id.*, ¶¶17, 28-33.

¶3 Regarding the removal of sentence credit in No. 1985CF1026, the circuit court had inherent authority to correct what was essentially an illegal sentence. *See State v. Stenklyft*, 2005 WI 71, ¶62, 281 Wis. 2d 484, 697 N.W.2d 769. At sentencing the court ordered credit for the same 165 days served against each sentence. Because the sentence in No. 1985CF1026 was consecutive to the sentence imposed in No. 1985CF780, dual sentence credit is not allowed. *See State v. Boettcher*, 144 Wis. 2d 86, 100, 423 N.W.2d 533 (1988).

¶4 Casteel attempts to raise numerous issues on appeal that are not related to the amendments to the judgments of conviction. He accuses the State of committing fraud on the court; he alleges bias by the sentencing judge and the postconviction judge; he argues the circuit court lacked subject matter and personal jurisdiction and challenges the sufficiency of the criminal complaints. Because these issues were previously raised or could have been raised in Casteel's numerous prior appeals and are wholly unrelated to the amendments to the judgments, Casteel is procedurally barred from raising these issues. *See State v. Escalona-Naranjo*, 185 Wis. 2d 168, 181-82, 517 N.W.2d 157 (1994).

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

